IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D ER

Ashok Kumar Prajapat v. Union of India & Ors.

S.B.CIVIL WRIT PETITION NO.2379/2002
under Articles 226 of the Constitution of India.

Date of order : 4th April, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. P.S.Bhati, for the petitioner.
Mr. Kuldeep Mathur, for the respondents.

BY THE COURT :

By this petition for writ a direction has been sought by the petitioner for respondent Dy.Director General, N.C.C. Directorate of Uttar Pradesh & Uttaranchal to declare the result of the selection process conducted for recruitment to the post of Aero-Modelling Instructor and further to give appointment to him on the post referred above if found eligible on merits. The petitioner has also prayed to compensate him for the mental and financial loss caused because of the acts of the respondents.

The facts in brief are that the petitioner was directed by Dy.Director General, N.C.C.

Directorate of Uttar Pradesh and Uttaranchal to hold demonstration of Aero-Modelling at Varanasi on 29.11.2000. The petitioner was also asked to give an application for appointment to the post of Aero-Modelling Instructor in 7-U.P. Air Sqdn., N.C.C., Varanasi. The petitioner submitted an application and he was subjected to a test conducted by the respondents for making appointment to the post of Aero-Modelling Instructor. The result of the said test was not declared, however, by an another communication dated 27.11.2001 issued by the Commanding Officer, 7-U.P., Air Sqdn., N.C.C. Banaras Hindu University, Varanasi the petitioner was directed to report to N.C.C. Directorate (Uttar Pradesh and Uttaranchal) to face an interview for appointment to the post of Aero-Modelling Instructor. The petitioner again faced the selection proceedings but of no consequence. The petitioner further faced the selection proceedings under a communication dated 17.6.2002, but no result of the same was ever communicated to him. The petitioner in these circumstances preferred this writ petition praying for directions for respondents to declare the result of the selection proceedings and to appoint him in event of his selection.

From perusal of averments contained in the petition for writ and the documents annexed thereto it is apparent that the selection proceedings pertains to

appointment of Aero-Modelling Instructor, 7-U.P. Air Sqdn., N.C.C. Banaras Hindu University, Varanasi. The act and also the omission sought to be agitated by the petitioner in the present writ petition took place in State of Uttar Pradesh.

Looking to this position it appears that territorial jurisdiction to issue writ, order or direction to the respondents in present petition is not vested with this Court.

Under Article 226 of the Constitution of India High Court have powers to be exercised throughout the territories in relation to which it exercises jurisdiction and also to issue directions, orders or writs or any of them for enforcement of any of the right conferred by part-III and for any other purpose to any person or authority including any government within the territories the High Court exercises jurisdiction. Thus the powers of the High Court under Article 226 of the Constitution are limited to its territorial jurisdiction. Hon'ble Supreme Court in its decision in the case of K.S.Rashid and son v. Income Tax Investigation Commission and others, reported in AIR 1954 SC 207, while considering the territorial limitations of High Court under Article 226 of the Constitution held as under:-

> "There are only two limitations placed upon the exercise of these powers by a High Court under Art.226 of the Constitution; one is that the power is to be exercised "throughout the territories in relation to which it exercises jurisdiction", that is to say, the writs issued by the Court cannot run beyond the territories subject to its jurisdiction. The other limitation is that the person or authority to whom the High Court is empowered to issue writs "must be within those territories" and this implies that they must be amenable to its jurisdiction either by residence or location within those territories. It is with reference to these two conditions thus mentioned that the jurisdiction of the High Courts to issue writs under Art.226 of the Constitution is to be determined."

Irrespective of limitations above the High Court while exercising powers under Article 226 of the Constitution can issue directions, orders or writs to any Government, authority or person exercising jurisdiction in relation to the territories within which the cause of action wholly or in part arises notwithstanding that the seat of such Government or authority or the residence of such person is within those territories. For exercising these powers the Court is required to see as to whether cause of action or any part of cause of action arose within its territorial jurisdiction. To determine whether cause of action or part of cause of action arose within

territorial jurisdiction of the Court the facts pleaded in the petition are to be considered and on that basis only the question of jurisdiction can be decided.

In the present case no act or omission took place within the territorial jurisdiction of this Court. The petitioner faced selection proceedings in the State of Uttar Pradesh for appointment in State of Uttar Pradesh and the denial for appointment was also made in State of Uttar Pradesh. Merely on basis of fact that the petitioner is residing in State of Rajasthan, it cannot be said that part cause of action arose within territorial jurisdiction of this Court.

In view of whatever discussed above this petition for writ is dismissed as this Court is having no territorial jurisdiction to adjudicate the same.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps